

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAVID KINLOCK,

Plaintiff,

- against -

11 Civ. 8696 (JGK)

MEMORANDUM OPINION AND
ORDER

MARTHA YOURTH,

Defendant.

JOHN G. KOELTL, District Judge:

The plaintiff has filed an application for the Court to request counsel to represent him in these proceedings. However, from the papers provided, the Court cannot determine whether the necessary showing for appointment of counsel has been met. The Court of Appeals for the Second Circuit has articulated factors that should guide the Court's discretion to appoint counsel to represent an indigent civil litigant under 28 U.S.C. § 1915.

See Hodge v. Police Officers, 802 F.2d 58, 61-62 (2d Cir. 1986).

For the Court to order the appointment of counsel, the plaintiff must, as a threshold matter, demonstrate that his claim has

substance or a likelihood of success on the merits. See Hodge,

802 F.2d at 60-61. Only then can the Court consider the other

factors appropriate to determination of whether counsel should

be appointed: "plaintiff's ability to obtain representation

independently, and his ability to handle the case without

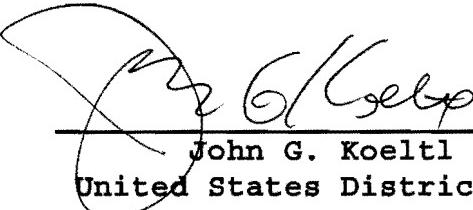
assistance in the light of the required factual investigation,

the complexity of the legal issues, and the need for expertly

conducted cross-examination to test veracity." Cooper v. A. Sargent Co., Inc., 877 F.2d 170, 172 (2d Cir. 1989). The plaintiff has not yet made such a showing. The plaintiff's application for the Court to appoint counsel is therefore denied without prejudice for failure to make the required showing at this time.

SO ORDERED.

Dated: New York, New York
May 29, 2012


John G. Koeltl
United States District Judge